

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GMA ACCESSORIES, INC.,

Plaintiff,

- against -

QUIKSILVER, INC., and JILL STUART, INC.,

Defendants.

-----X

07 CV 11527 (VM) (RLE)

DECLARATION OF JOHN
P. BOSTANY

John P. Bostany hereby declares, under penalty of perjury pursuant to 28 U.S.C. § 1746, as follows:

1. I am attorney for Plaintiff in this proceeding and respectfully make this declaration based upon my review of the files maintained in the firm's offices.
2. This Declaration is respectfully submitted in support of Plaintiff's application for an Order joining Jill Stuart International, Ltd. and Jill Stuart International, LLC.
3. GMA Accessories, Inc. brought this trademark infringement action against several parties that manufacture and/or distribute goods that infringe upon GMA's CHARLOTTE mark. One of the infringing goods is a JILL STUART bag that uses the CHARLOTTE mark without authorization from GMA, the owner of the CHARLOTTE mark. Accordingly, the entity Jill Stuart, Inc., which we believed to be the manufacturer of the JILL STUART bag, was named as a defendant in this action.
4. Dwight Yellen, counsel for Jill Stuart, Inc., represents Jill Stuart, Inc., Jill Stuart International, Ltd. and Jill Stuart International, LLC, which we understand have common owners. Mr. Yellen informed us that Jill Stuart International, Ltd and Jill Stuart

International, LLC were the true parties in interest, while Jill Stuart, Inc. is no longer active. During the July 29, 2008 conference before Judge Ellis, Mr. Yellen advised that the parties had “sorted out the mix-up” regarding the Jill Stuart entity name. We anticipated that Mr. Yellen would agree to the joinder.

5. However, we have been attempting for more than six weeks now without success to obtain Mr. Yellen’s signature on the attached consent order. *See* **Exhibit A**. We have written and called numerous times for over two weeks, but he has been unreachable. *See* **Exhibit B**.
6. The records maintained with The New York State Division of Corporations lists the address of all three of these entities as Mr. Yellen’s firm, Ballon Stoll Bader & Nadler. *See* **Exhibit C**. Moreover, Jill Stuart is the name of a designer, and upon information and belief, Ms. Stuart owns and operates all three of these entities along with her husband, Ron Curtis.
7. It is clear that had GMA named Jill Stuart International, Ltd. and Jill Stuart International, LLC in the Complaint, Mr. Yellen, Ms. Stuart and Mr. Curtis would have been notified of the pending action.
8. For the reasons contained in the accompanying memorandum of law, plaintiff respectfully requests that this court issue an Order allowing GMA to include Jill Stuart International, Ltd. and Jill Stuart International, LLC as defendants in this action.

Dated: New York, New York
August 19, 2008

John P. Bostany (JB 1986)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
GMA ACCESSORIES, INC.,

Plaintiff,

- against -

QUIKSILVER, INC., NORDSTROM, INC.,
SWELL, INC., and JILL STUART, INC.,

Defendants.

-----X

WHEREAS Defendant Jill Stuart, Inc. is the predecessor entity of Jill Stuart International, Ltd. and Jill Stuart International, LLC; Defendant Jill Stuart, Inc., on consent and for good cause shown, it is

ORDERED that Defendant Jill Stuart, Inc. is hereby dropped as a party, and it is

FURTHER ORDERED that Jill Stuart International, Ltd. and Jill Stuart International, LLC are added as parties, *nunc pro tunc*, with the identical allegations against them as are pled against Jill Stuart, Inc.

Dated: New York, New York
August 6, 2008

THE BOSTANY LAW FIRM

By: John P. Bostany
Attorneys for Plaintiff
40 Wall Street – 61st Floor
New York, New York 10005

S O O R D E R E D

BALLON STOLL BADER & NADLER, P.C.

By: Dwight Yellen
*Attorneys for Jill Stuart, Inc.,
Jill Stuart International, Ltd.,
and Jill Stuart International, LLC*
729 Seventh Avenue - 17th Floor
New York, New York 10019

Honorable Victor Marrero, U.S.D.J.
Date:

Dan Levy

From: Dan Levy
Sent: Monday, August 18, 2008 7:13 PM
To: 'Dwight Yellen'
Cc: John Bostany; Dan Levy
Subject: RE: Substitution of Jill Stuart

I called you several times last week and today, and I don't understand why you will not sign the stipulation. It would be a shame to burden the court with such a trivial matter.

Thanks,

Dan Levy

From: Dan Levy
Sent: Thursday, August 07, 2008 1:08 PM
To: 'Dwight Yellen'
Cc: John Bostany; Dan Levy
Subject: RE: Substitution of Jill Stuart

Dwight:

I called your office to follow up on this matter, but you were not there. Please call me back to discuss this. Also, I am again reminding you that Jill Stuart's deposition is tomorrow. Please confirm that you are planning to default as you represented in your August 5 email.

Thanks,

Dan Levy

From: Dan Levy
Sent: Wednesday, August 06, 2008 11:27 AM
To: 'Dwight Yellen'
Cc: John Bostany; Dan Levy
Subject: RE: Substitution of Jill Stuart

Dwight:

You have consistently asserted that Jill Stuart, Inc. was the wrong Jill Stuart entity, and that Jill Stuart International, Ltd. and Jill Stuart International, LLC were the correct entities. You have also continued to move forward in this litigation as if Jill Stuart International, Ltd. and Jill Stuart International, LLC were the parties named in the Summons and Second Amended Complaint. Accordingly, please execute the attached Consent Order so that the Jill Stuart name can be corrected in the caption and an unnecessary motion might be avoided.

Thanks,

Dan Levy

From: Dan Levy

8/18/2008

Sent: Wednesday, July 02, 2008 5:29 PM
To: dyellen@ballonstoll.com
Cc: John Bostany; Dan Levy; Ron Paltrowitz
Subject: Substitution of Jill Stuart

Dwight:

Pursuant to your representation to the court that the Jill Stuart, Inc. entity was the wrong entity to be sued, please execute and return the attached Stipulation, which will substitute the correct Jill Stuart entities for Jill Stuart, Inc.

It is appropriate and my hope that where matters can be worked out between the parties without judicial assistance they will be.

Thanks,

Daniel Levy, Esq.

Admitted in NJ Only

The Bostany Law Firm
40 Wall Street - 61st Floor
New York, NY 10005
p: 212-530-4400
f: 212-530-4488

8/18/2008

NYS Department of State

Division of Corporations

Entity Information

Selected Entity Name: JILL STUART, INC.

Selected Entity Status Information

Current Entity Name: JILL STUART, INC.

Initial DOS Filing Date: NOVEMBER 27, 1978

County: NEW YORK

Jurisdiction: NEW YORK

Entity Type: DOMESTIC BUSINESS CORPORATION

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

BALLON STOLL & ITZLER

1180 AVE OF AMERICAS

NEW YORK, NEW YORK, 10036

Registered Agent

NONE

NOTE: New York State does not issue organizational identification numbers.

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NYS Department of State

Division of Corporations

Entity Information

Selected Entity Name: JILL STUART INTERNATIONAL, LTD.

Selected Entity Status Information

Current Entity Name: JILL STUART INTERNATIONAL, LTD.

Initial DOS Filing Date: JULY 01, 1996

County: NEW YORK

Jurisdiction: NEW YORK

Entity Type: DOMESTIC BUSINESS CORPORATION

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

C/O BALLON STOLL BADER & NADLER, PC ATTN HOWARD D BADER

1450 BROADWAY

NEW YORK, NEW YORK, 10018-2268

Registered Agent

NONE

NOTE: New York State does not issue organizational identification numbers.

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NYS Department of State

Division of Corporations

Entity Information

Selected Entity Name: JILL STUART INTERNATIONAL, LLC

Selected Entity Status Information

Current Entity Name: JILL STUART INTERNATIONAL, LLC

Initial DOS Filing Date: JULY 18, 2002

County: NEW YORK

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

BALLON STOLL BADER & NADLER, P.C.

1450 BROADWAY

NEW YORK, NEW YORK, 10018

Registered Agent

NONE

NOTE: New York State does not issue organizational identification numbers.

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